

Article - Health - General

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§24-1406.

(a) In accordance with this section, the State shall have the right to recover funds disbursed under this subtitle.

(b) In the event of failure to complete a project or failure to commence operation of a facility, the State may recover from the recipient of the funds disbursed for the project or facility or from the owner of the property an amount equal to the amount of State funds disbursed for the project, together with all costs and reasonable attorneys' fees incurred by the State in the recovery proceedings.

(c) The State may recover from either the transferor or transferee or, in the case of a property that has ceased to be a facility, from the owner, an amount bearing the same ratio to the then current value of so much of the property as constituted an approved project as the amount of the State participation bore to the total eligible cost of the approved project, together with all costs and reasonable attorneys' fees incurred by the State in the recovery proceedings, if, within 30 years after completion of a project, a property for which funds have been paid under this subtitle:

(1) Is sold or transferred to any person, agency, or organization that would not qualify as an applicant under this subtitle, or that is not approved as a transferee by the Board of Public Works; or

(2) Ceases to be a facility as defined in this subtitle.

(d) (1) Before the State makes any funds available for an approved project, the Department shall cause a notice of this right of recovery to be recorded in the land records of the county or Baltimore City in which the property is located.

(2) The recording of the notice:

(i) Does not create a lien against the property; but

(ii) Shall constitute notice to any potential transferee, potential transferor, potential creditor, or other interested party of the possibility that the State may obtain a lien under this subtitle.

(e) (1) (i) The Secretary of the Board of Public Works may authorize the Department to file a civil claim, in the circuit court for the county or Baltimore

City in which the property is located, against the owner of the property and any other interested parties, including any transferor that the State wishes to make a party if:

1. A failure to complete the project or commence operations of the facility as described in subsection (b) of this section has occurred;

2. An alleged sale or transfer as described in subsection (c) of this section has occurred; or

3. A property is alleged to have ceased to be a facility as defined in this subtitle;

(ii) The claim shall be filed with:

1. Sworn affidavits stating facts on which the allegations of default are based; and

2. A detailed justification of the amount claimed.

(2) If the circuit court determines from the State's initial filing that there is probable cause to believe that a default has occurred, pending full determination of the State's claim, the court shall authorize a temporary lien on the property:

(i) In the amount of the State's claim plus any additional amount estimated to be necessary to cover the costs and reasonable attorneys' fees incurred by the State; or

(ii) In other amounts that the court determines to be reasonable.

(3) (i) A temporary lien shall take effect:

1. On the date of the court's authorization, if the Secretary of the Board of Public Works records a notice of temporary lien in the land records of the county or Baltimore City in which the property is located within 10 days after the court's authorization; or

2. On the date a notice of temporary lien is recorded.

(ii) While the temporary lien is in effect, the owner or any person who acquired an interest in the property after the State first made funds available in connection with the property may not without the prior written consent of the State:

1. Take any action that would affect the title to the property; or

2. Institute any proceedings to enforce a security interest or other similar rights in the property.

(4) (i) The owner of the property or any other interested party may obtain release of a temporary lien at any time by filing with the court a bond securing the payment in full of the State's claim and any additional amount necessary to cover the costs and reasonable attorneys' fees incurred by the State.

(ii) The owner or other interested party may cause the release to be recorded in the land records.

(f) Proceedings to determine the State's right to recover and the amount of its recovery under this subtitle shall have priority over other civil proceedings in the circuit courts.

(g) (1) (i) At the conclusion of full adversary proceedings on the issue of default and of any disputes over the amount of the State's recovery, the circuit court shall, if it finds that a default has occurred, issue a final judgment for the amount it finds to be recoverable by the State.

(ii) All parties involved in the default, including in every case the owner of the property, shall be held jointly and severally liable to the State for the amount of the judgment.

(2) (i) Except as the State may otherwise provide by a written subordination agreement, if the amount of the final judgment remains unpaid after 30 days following the court's final order, the final judgment shall constitute a lien on the property, superior to the lien or other interest of a mortgagee, pledgee, purchaser, or judgment creditor whose interest became perfected against third persons after the State first made funds available under this subtitle.

(ii) 1. Except as provided in subsubparagraph 2 of this subparagraph, a lien takes effect on the date a notice of lien is recorded.

2. A lien takes effect on the 31st day following the court's final order if the Secretary of the Board of Public Works records a notice of lien in the land records of the county or Baltimore City in which the property is located on or before the 41st day following the final order.

(iii) 1. At the time that a lien takes effect, any temporary lien then in effect shall be automatically and fully released.

2. The recorded notice of a lien shall constitute notice of the release of a temporary lien.

(iv) A lien imposed under this subsection may be enforced and foreclosed in accordance with the procedures prescribed in the Maryland Rules, except that neither the State nor any agent appointed by the State to sell the property need file a bond.

(3) (i) The owner or any other interested party may obtain release of a lien at any time by paying to the State the full amount of the judgment rendered by the circuit court, together with interest from the date of judgment.

(ii) On payment in full, the Secretary of the Board of Public Works shall cause a release to be recorded in the land records.

(4) If the circuit court finds that there has been no default or if the full amount of the court's judgment is paid to the State within 30 days after the court's final order, a temporary lien then in effect shall be released immediately and the Secretary of the Board of Public Works shall cause the release to be recorded in the land records.

(h) (1) All funds recovered as a result of this right of recovery shall be deposited in the Annuity Bond Fund and applied to the debt service requirements of the State.

(2) If the Board of Public Works determines that there is good cause for releasing the transferor, transferee, or owner from the obligation imposed under this subtitle, the Board of Public Works may waive the State's right of recovery under this subtitle.

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